

for speedy trial violations on July 15, 2005 and September 15, 2005 (A. 9, 10). The latter motion was denied, following a hearing, on October 13, 2005 (A. 10). On October 28, 2005, the petitioner waived Rule 36 and requested that the case be re-scheduled to November 28, 2005 for trial (A. 11). On December 1, 2005, the petitioner filed another motion to dismiss based on speedy trial grounds and the Commonwealth moved for trial (A. 12). Jury impanelment occurred on December 1, and the court ordered the case continued to December 5, 2005 for a hearing on the petitioner's motion to suppress and December 6, 2005 for the resumption of trial (A. 13).

The petitioner filed this petition for habeas corpus on July 25, 2005.

ARGUMENT

THE HABEAS CORPUS PETITION SHOULD BE DISMISSED WHERE THE PETITIONER FAILED TO EXHAUST AVAILABLE STATE COURT REMEDIES.

It is well-established that “a federal court should not consider questions posed in a habeas petition until the ‘power of the highest state court in respect to such questions’ has been exhausted.” *Mele v. Fitchburg District Court*, 850 F.2d 817, 819 (1st Cir. 1988), *quoting United States ex rel. Kennedy v. Tyler*, 269 U.S. 13, 17 (1925). *See Rose v. Lundy*, 455 U.S. 509, 518-19 (1982); *Adelson v. DiPaola*, 131 F.3d 259, 261-262 (1st Cir. 1997); *Dougan v. Ponte*, 727 F.2d 199, 202 (1st Cir. 1984); 28 U.S.C. §2254(b)(1)(A). The Supreme Court enunciated that “state prisoners must give the state courts one full opportunity to resolve any constitutional issue by invoking one complete round of the State’s established appellate review process.” *O’Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999). The exhaustion principle, in addition to ensuring that state courts have the first opportunity to correct their own constitutional errors made in their proceedings, enables federal courts to accord appropriate respect to the sovereignty of the states and promotes comity by

“minimiz[ing] friction between our federal and state systems of justice.” *Rose*, 455 U.S. at 518. *See Duncan v. Henry*, 513 U.S. 364, 365-366 (1995); *Duckworth v. Serrano*, 454 U.S. 1, 3 (1984); *Scarpa v. DuBois*, 38 F.3d 1, 6 (1st Cir. 1994), *cert. denied*, 513 U.S. 1129 (1995); *Mele*, 850 F.2d at 819. *See also Ex parte Royall*, 117 U.S. 241, 251 (1886)(state and federal courts are “equally bound to guard and protect rights secured by the Constitution”). “It would be unseemly in our dual system of government for a federal district court to upset a state court conviction without an opportunity to state courts to correct a constitutional violation.” *Picard v. Connor*, 404 U.S. 270, 275 (1971), quoting *Darr v. Burford*, 339 U.S. 200, 204 (1950).

In this case, the petitioner has not yet been convicted but appears to claim that his speedy trial rights were violated. While a speedy trial violation could form the basis for a federal habeas claim under 28 U.S.C. § 2241, federal courts require that claims in petitions under Section 2241, like those in petitions under Section 2254, be exhausted in the state’s highest court. *See Moore v. DeYoung*, 515 F.2d 437, 442 (3rd Cir. 1975); *Hirsch v. Smitley*, 66 F.Supp.2d 985, 986 (E.D.Wis. 1999). In the instant case, the petitioner has not exhausted his speedy trial claims. *See generally, Petition; see also Rose v. Lundy*, 455 U.S. at 518-19; *Scarpa v. DuBois*, 38 F.3d at 6. While he did bring a motion to dismiss based on this ground in the state Superior Court, he did not pursue this claim on appeal. *Mele v. Fitchburg Dist. Ct.*, 850 F.2d at 819-20 (in Massachusetts, a claim is not exhausted unless it is presented to the Massachusetts Supreme Judicial Court).³ It is the petitioner’s heavy burden to demonstrate that any federal errors in the state court proceedings were fairly presented to the state’s highest court. *Nadworny v. Fair*, 872 F.2d 1093, 1098 (1st Cir. 1989). Because the petitioner has not “fairly presented the substance of his federal habeas claim to the state court before seeking federal review,” *Gagne v. Fair*, 835 F.2d 6, 7 (1st Cir. 1987), his petition

³ Moreover, since the petitioner’s trial has now started, his speedy trial claim is moot.

should be dismissed.

CONCLUSION

For the reasons set forth above, the respondent moves this Court to dismiss the habeas corpus petition.

Respectfully submitted,

THOMAS F. REILLY
ATTORNEY GENERAL

December 13, 2005

/s/ Susanne G. Reardon
Susanne G. Reardon, BBO No. 561669
Assistant Attorney General
Criminal Bureau
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-2200

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the attached document was served upon Michael Grinkley, pro se, 200 Nashua Street, Boston, MA 02114, by first class mail, postage pre-paid, on December 13, 2005.

/s/ Susanne G. Reardon
Susanne G. Reardon
Assistant Attorney General

**Commonwealth of Massachusetts
SUFFOLK SUPERIOR COURT
Case Summary
Criminal Docket**

Commonwealth v Grinkley, Michael

Details for Docket: SUCR2003-10321

Case Information

Docket Number:	SUCR2003-10321	Caption:	Commonwealth v Grinkley, Michael
Entry Date:	03/31/2003	Case Status:	Criminal 8 Ctrm 914
Status Date:	10/13/2005	Session:	Active
Lead Case:	NA	Deadline Status:	Deadline act
Trial Deadline:	04/03/2003	Jury Trial:	NO

Parties Involved

2 Parties Involved in Docket: SUCR2003-10321

Party Involved:		Role:	Defendant
Last Name:	Grinkley	First Name:	Michael
Address:	137 Geneva Avenue	Address:	
City:	Boston	State:	MA
Zip Code:	02121	Zip Ext:	
Telephone:			

Party Involved:		Role:	Plaintiff
Last Name:	Commonwealth	First Name:	
Address:		Address:	
City:		State:	
Zip Code:		Zip Ext:	
Telephone:			

Attorneys Involved

4 Attorneys Involved for Docket: SUCR2003-10321

Attorney Involved:		Firm Name:	PANS01
Last Name:	Giblin III	First Name:	Thomas J
Address:	2001 Beacon Street	Address:	Suite 200
City:	Brighton	State:	MA

Zip Code: 02135
Telephone: 617-277-1741
Fascimile: 617-277-0052

Zip Ext:
Tel Ext:
Representing: Grinkley, Michael (Defendant)

Attorney Involved:

Last Name: Sullivan
Address: 200 State Street
City: Boston
Zip Code: 02109
Telephone: 617-478-2067
Fascimile: 617-478-2054

Firm Name:

First Name: E Michael
Address: 12th floor
State: MA
Zip Ext:
Tel Ext:
Representing: Grinkley, Michael (Defendant)

Attorney Involved:

Last Name: Rolley
Address: Board of Registration in Medicin
City: Boston
Zip Code: 02118
Telephone: 617-654-9800
Fascimile:

Firm Name:

First Name: Karen E
Address: 560 Harrison Avenue Suite G-4
State: MA
Zip Ext:
Tel Ext:
Representing: Commonwealth, (Plaintiff)

Attorney Involved:

Last Name: Joseph
Address: 1 Bulfinch Place
City: Boston
Zip Code: 02114
Telephone: 617-619-4000
Fascimile: 617-619-4009

Firm Name:

First Name: Leora C
Address: 3rd floor
State: MA
Zip Ext:
Tel Ext:
Representing: Commonwealth, (Plaintiff)

Calendar Events

51 Calendar Events for Docket: SUCR2003-10321

No.	Event Date:	Event Time:	Calendar Event:	SES:	Event Status:
1	04/03/2003	09:30	Arraignment	CM	Event held as scheduled
2	05/12/2003	09:30	Conference: Pre-Trial	CM	Event not held--joint request
3	06/02/2003	09:30	Conference: Pre-Trial	CM	Event held as scheduled
4	07/21/2003	09:30	Hearing: Non-eviden-Discovery	CM	Event held as scheduled
5	09/04/2003	09:30	Hearing: Non-eviden-Discovery	CM	Event held as scheduled
6	10/22/2003	09:30	Conference: Status Review	CM	Event held as scheduled
7	12/01/2003	09:30	Hearing: Motion	1	Event held as scheduled
8	01/28/2004	09:30	Hearing: Non-eviden-Bishop/Fuller	1	Event not held--req of Commonwe:

9	02/18/2004	09:30	Hearing: Motion	1	Event held as scheduled
10	03/10/2004	09:30	Hearing: Motion	1	Event held as scheduled
11	04/13/2004	14:00	Hearing: Motion	1	Event not held--joint request
12	04/20/2004	09:30	Hearing: Appt Counsel	1	Event held as scheduled
13	06/01/2004	09:30	Conference: Status Review	CM	Event held as scheduled
14	06/24/2004	09:30	Conference: Status Review	CM	Event held as scheduled
15	07/19/2004	09:30	Conference: Trial Assignment	CM	Event held as scheduled
16	08/12/2004	09:30	Conference: Trial Assignment	CM	Event moved to another session
17	08/12/2004	09:30	Hearing: Motion	1	Event held as scheduled
18	11/08/2004	09:00	TRIAL: by jury	5	Event moved to another session
19	11/08/2004	09:30	Hearing: Misc Matters	1	Event held as scheduled
20	11/09/2004	09:30	Hearing: Appt Counsel	1	Event held as scheduled
21	11/30/2004	09:30	Status: Filing deadline	CM	Event held as scheduled
22	01/05/2005	09:30	Hearing: Motion	1	Event held as scheduled
23	02/03/2005	09:30	Hearing: Non-eviden-Bishop/Fuller	1	Event not held--joint request
24	03/07/2005	09:30	Hearing: Non-eviden-Bishop/Fuller	1	Event not held--joint request
25	03/21/2005	09:30	Conference: Status Review	1	Event held as scheduled
26	04/21/2005	09:30	Conference: Status Review	1	Event not held--joint request
27	05/03/2005	09:30	Conference: Status Review	1	Event not held--joint request
28	06/02/2005	09:30	Conference: Status Review	1	Event held as scheduled
29	08/22/2005	09:00	TRIAL: by jury	4	Event not reached by Court
30	08/22/2005	09:30	TRIAL: by jury	1	Event moved to another session
31	08/24/2005	09:00	Hearing: Motion	4	Event moved to another session
32	08/24/2005	09:30	Hearing: Motion	1	Event held as scheduled
33	09/13/2005	14:00	Conference: Pre-Trial	5	Event not reached by Court
34	09/15/2005	14:00	Status: Review by Session	4	Event held as scheduled
35	09/19/2005	14:00	Hearing: Motion	5	Event held as scheduled
36	10/21/2005	09:00	Hearing: Motion	8	Event held as scheduled
37	10/28/2005	09:00	Hearing: Motion	8	Event held as scheduled
38	11/07/2005	09:00	Status: Review by Session	8	Event held as scheduled
39	11/17/2005	09:00	Status: Review by Session	8	Event held as scheduled
40	11/22/2005	14:00	Status: Review by Clerk	8	Event held as scheduled
41	11/28/2005	09:00	TRIAL: by jury	8	Event not held--req of Defendant
42	11/28/2005	14:00	Status: Review by Session	8	Event held as scheduled
43	12/01/2005	09:00	TRIAL: by jury	8	Trial begins
44	12/05/2005	09:00	Hearing: Evidentiary-suppression	8	Event held as scheduled
45	12/06/2005	09:00	TRIAL: by jury	8	Event held as scheduled
46	12/07/2005	09:00	TRIAL: by jury	8	Event continues over multiple days
47	12/08/2005	09:00	TRIAL: by jury	8	Event continues over multiple days
48	12/12/2005	09:00	TRIAL: by jury	8	Event continues over multiple days
49	12/13/2005	09:00	TRIAL: by jury	8	Event continues over multiple days
50	12/14/2005	09:00	TRIAL: by jury	8	
51	12/22/2005	09:00	Status: Review by Session	8	Event canceled not re-scheduled

Full Docket Entries

354 Docket Entries for Docket: SUCR2003-10321

Entry Date:	Paper No:	Docket Entry:
03/31/2003	1	Indictment returned
03/31/2003	2	Motion by Commonwealth for arrest warrant to issue; filed & allowed.
03/31/2003	2	Ball, J.
03/31/2003		Warrant on indictment issued
03/31/2003		Warrant was entered onto the Warrant Management System March 31, 2003
04/02/2003		Defendant brought into court. Warrant recalled.
04/02/2003		Mittimus without bail issued to Suffolk County Jail (Nashua Street).
04/02/2003		Mittimus issued. Wilson, AC/M - C. Bartoloni, ADA - ERD - A.
04/02/2003		Stockwell-Alpert, Attorney
04/03/2003		Defendant brought into court.
04/03/2003		Appearance of Deft's Atty: Thomas J Giblin III
04/03/2003		Deft arraigned before Court
04/03/2003		Deft waives reading of indictment
04/03/2003		RE Offense 1:Plea of not guilty
04/03/2003		RE Offense 2:Plea of not guilty
04/03/2003		RE Offense 3:Plea of not guilty
04/03/2003		RE Offense 4:Plea of not guilty
04/03/2003		RE Offense 5:Plea of not guilty
04/03/2003		RE Offense 6:Plea of not guilty
04/03/2003		RE Offense 7:Plea of not guilty
04/03/2003		RE Offense 8:Plea of not guilty
04/03/2003		RE Offense 9:Plea of not guilty
04/03/2003		RE Offense 10:Plea of not guilty
04/03/2003		RE Offense 11:Plea of not guilty
04/03/2003	3	Commonwealth files motion for Court Order to Restrict Discovery of
04/03/2003	3	Videotapes.
04/03/2003		Motion (P#3) allowed
04/03/2003		Bail set: \$150,000.00 Surety or \$15,000.00 Cash without prejudice.
04/03/2003		Bail warning read. Mittimus issued. Wilson, AC/M - K. Rolley, ADA -
04/03/2003		ERD - T. Giblin, Attorney
04/03/2003		Warrant canceled on the Warrant Management System April 03, 2003
05/12/2003		Defendant not present. Wilson, AC/M - G. Brooks, ADA - E.R.D. - T.
05/12/2003		Giblin, Attorney
06/02/2003		Defendant not present. PTC to be filed in Clerk's Office on 6/14/03.
06/02/2003	4	Commonwealth files notice of discovery. Wilson, Mag - K. Rolley, ADA
06/02/2003	4	- ERD
07/21/2003		Defendant not present
07/21/2003	5	Pre-trial conference report filed. Ford, Mag- C.Bartoloni for

07/21/2003	5	K.Rolley, ADA- ERD- T.Giblin, Attorney
09/04/2003		Defendant not present. Wilson, Mag - K. Rolley, ADA - ERD - T.
09/04/2003		Giblin, Attorney
10/21/2003	7	Deft files pro se motion for funds to hire private investigator
10/22/2003		Defendant not present
10/22/2003	6	Deft files motion for funds.
10/22/2003		Motion (P#6) allowed (Gary D Wilson, Magistrate) - K. Rolley, ADA -
10/22/2003		ERD - T. Giblin, Attorney
10/23/2003	8	Deft files pro se petitioner to request a status change to stand pro
10/23/2003	8	se with standby counsel to assist in the preparation of this case
11/13/2003	9	Deft files pro se motion for new counsel. with request for copies of
11/13/2003	9	motions filed.
11/24/2003	10	Commonwealth files motion for order to take oral swab and hair sample
11/24/2003	10	of the defendant with affidavit in support of.
12/01/2003		Defendant brought into court. Hearing re: motions.
12/01/2003		Motion (P#10) allowed as endorsed.
12/01/2003	11	Order, filed. Ball, J. - K. Rolley, ADA - A. McDonald, Court
12/01/2003	11	Reporter - T. Giblin, Attorney
01/28/2004		Defendant not present. Lauriat, J. - K. Rolley, ADA - M. McDonald,
01/28/2004		Court Reporter - T. Giblin, Attorney
02/18/2004		Defendant not present.
02/18/2004	12	Deft files Bishop Stage One Bishop and affidavit. Lauriat, J. - K.
02/18/2004	12	Rolley, ADA - M. McDonald, Court Reporter.
03/10/2004		Defendant not in Court
03/10/2004	13	Commonwealth files notice of discovery 3. McEvoy, J. - K. Rolley, ADA
03/10/2004	13	- T. Giblin, Attorney - M. McDonald, Court Reporter
03/11/2004	14	Deft files pro se waiver of counsel.(Attorneys notified with copy)
03/24/2004	15	Deft files prose motion to inspect evidence and reports
03/24/2004	16	Deft files prose motion for a bill of particulars
04/13/2004		Defendant not present.
04/13/2004		Continued until April 20, 2004 for hearing re: Counsel order of the
04/13/2004		court Rouse, J. - M. McDonald, Court Reporter - T. Giblin, Attorney.
04/20/2004		Defendant brought into court.
04/20/2004	17	Deft files Motion to Withdraw.
04/20/2004		Motion (P#17) allowed.
04/20/2004		Appointment of Counsel E Michael Sullivan, pursuant to Rule 53 Stand
04/20/2004		by Counsel.
04/20/2004		Continued until June 01, 2004 for Status re: Discovery by agreement.
04/20/2004		McEvoy, J. - L. Joseph, ADA - A. McDonald, Court Reporter - T.
04/20/2004		Giblin, Attorney.
04/30/2004	17	Deft files pro se motion to compel expedient disclosure of case file
04/30/2004	17	contents in the possession of prior defense counsel, at request to
04/30/2004	17	standby counsel to present his self for initial consultation and
04/30/2004	17	affidavit in support of

06/01/2004		Defendant not present.
06/01/2004		Continued until June 24, 2004 for Status re: Discovery by agreement.
06/01/2004		Wilson, MAG - ERD - E. M. Sullivan, Attorney.
06/14/2004	18	Deft files pro se: motion to dismiss McCarthy
06/14/2004	19	Deft files pro se: motion for reduction of bail
06/24/2004		Defendant brought into court. Hearing re: motions.
06/24/2004		Hearing on (P#18) held, matter taken under advisement.
06/24/2004		Motion (P#19) denied (Christopher J Muse) - L. Joseph, ADA - A.
06/24/2004		McDonald, Court Reporter - Deft, Pro-Se
06/24/2004		Continued until July 19, 2004 re: Trial Assignment.
06/29/2004	20	Deft files, pro se, Motion for Funds (\$1,000.00)
06/29/2004	21	Deft, pro se, files Motion for Access to Law Library and Typewriter
07/01/2004		Motion (P#18) denied as endorsed. Muse, J. (L. Joseph, ADA - M.
07/01/2004		Grinkley, pro se notified w/copy of endorsement)
07/19/2004		Defendant not present. Continued to 8/12/04 re: Trial Assignment.
07/19/2004		Wong, Mag - L. Joseph, ADA - ERD
08/12/2004		Defendant not present. Case referred to First Session for Hearing re:
08/12/2004		Motions. Wilson, MAG - L. Joseph, ADA - ERD - E. Michael Sullivan,
08/12/2004		Stand by Counsel, Pro-SE.
08/12/2004		Defendant brought into court
08/12/2004	22	Deft files pro se motion for funds for investigator
08/12/2004		Motion (P#22) allowed in the amount of \$500.00 and Impounded by order
08/12/2004		of the Court
08/12/2004	23	Deft files pro se motion for funds for expert and to impound motion
08/12/2004		Motion (P#23) allowed in the amount of \$1,000.00 without prejudice to
08/12/2004		requesting additional funds if a need is established. Impounded by
08/12/2004		Order of the Court
08/12/2004	24	Deft files pro se motion for funds for transcription
08/12/2004		Motion (P#24) denied as endorsed
08/12/2004		Continued to week of 11/8/04 for trial by agreement to be scheduled
08/12/2004		by RPC. Case assigned to thr 5th Criminal Session Rm 11 (Notices
08/12/2004		sent) Sanders, J. - L. Joseph, ADA - A. McDonald, Court Reporter -
08/12/2004		E.M. Sullivan, Attorney
11/08/2004		Defendant not present. Continued to 11/9/04 re: Counsel. Ball, J. -
11/08/2004		L. Joseph, ADA - P. Napolitano, Court Reporter - E. M. Sullivan,
11/08/2004		Attorney
11/09/2004		Defendant brought into court. Continued to 11/30/04 re: Filing of
11/09/2004		Bishop Motions. Hearing re: Counsel.
11/09/2004		Appointment of Counsel E Michael Sullivan, pursuant to Rule 53 -
11/09/2004		originally appointed on 4/20/04. Ball, J. - P. Napolitano, Court
11/09/2004		Reporter - E M. Sullivan, Attorney
11/30/2004		Defendant not present.
11/30/2004	25	Deft files request for issuance of summonses under Rule 17(A) with
11/30/2004	25	record to Commonwealth's witnesses with affidavit in support thereof.

11/30/2004		Continued until January 05, 2005 for Hearing re: Motion by agreement.
11/30/2004		Wilson, MAG - C. Bartoloni for L. Joseph, ADA - ERD - E.M. Sullivan,
11/30/2004		Attorney
12/09/2004	26	Deft files pro se: request for issuance of summons under Rule 17(A)
12/09/2004	26	with regard to Commonwealth's witnesses and affidavit in support of.
01/05/2005		Defendant not present
01/05/2005	27	Deft files bishop motion and addendum.
01/05/2005	28	Deft files motion for funds.
01/05/2005		Motion (P#28) allowed
01/05/2005	29	Commonwealth files memorandum in oppositin to defendant's motion for
01/05/2005	29	production of victim's confidential info.
01/05/2005		Hearing on (P#27) held, matter taken under advisement.
01/05/2005		Continued to February 03, 2005 for hearing on Bishop Statge I.
01/05/2005		Gants, J. - L. Joseph, ADA - C. Bartholomew, Court Reporter - E.
01/05/2005		Michael Sullivan, Attorney
01/05/2005	30	Deft files "Bishop-Fuller Stage One" Order regarding the disclosure
01/05/2005	30	of potentially privileged information. (L. Joseph, ADA and M.
01/05/2005	30	Sullivan, Attorney notified w/copy)
02/03/2005		Defendant not present. Contineud to 3/7/05 by agreement. hearing
02/03/2005		re: Bishop Motions. Records not recieved; new order to be filed.
02/03/2005		Ball, J - L. Joseph, ADA - C. Bartholomew, CR - E.M. Sullivan, Atty
02/08/2005	31	Court order filed Records from Boston Medical Center to be delivered
02/08/2005	31	to Clerk's office by 3/1/05. Ball, J
02/14/2005		Summons issued to the Keeper of the Records, Boston Medical Center,
02/14/2005		w/copy of order. Hand delivered.
02/25/2005		Records received from Boston Medicial Center, RE:Chantel Barrett
02/25/2005		Pearson and Kishawra Barrett.
03/07/2005		Defendant not present in court, continued until March 21, 2005. by
03/07/2005		agreement. Hearing re: status re: records. Ball, J - K. Johnson, CR
03/07/2005		- E.M. Sullivan, Atty
03/21/2005		Summons issued to the Keeper of the Records, Boston Medical Center,
03/21/2005		w/copy of order. Hand delivered.
03/21/2005		Defendant not present.
03/21/2005	32	Order to issue P#31 (order filed on 2/8/05) with copy to be sent to
03/21/2005	32	Boston Medical Center to be received by the clerk's office by 4/18/05.
03/21/2005		Continued to April 21, 2005 for hearing on records by agreement.
03/21/2005		Records received from BMC on 3/1//05) maybe reviewed by counsel.
03/21/2005		Ball, J - L Joseph, ADA - C Johnson, Court Reporter - E Michael
03/21/2005		Sullivan, Attorney
04/21/2005		Continued to 5/3/05 by agreement. Hearing re: status re: bishop
04/21/2005		records. Hely, J - P. Connolly, CR - E. Michael Sullivan, Atty
05/03/2005		Defendant not present.
05/03/2005	33	Court Order Filed.
05/03/2005		Continued to 6/2/05 by agreement. Hearing re: status re: Bishop

05/03/2005		Records. Locke, J L. Joseph, ADA - C. Skeritt, CR - E. M. Sullivan,
05/03/2005		Atty
05/10/2005		Summons issued to the Keeper of the Records, Boston Medical Center,
05/10/2005		w/copy of Court Order. Hand delivered.
05/11/2005		Summons returned w/service re: Paper #31 - Boston Medical Center.
05/20/2005	34	Deft files Motion to remove counsel.
05/20/2005	35	Deft files pro se: motion for a writ of habeas corpus ad
05/20/2005	35	testificandum.
05/20/2005	35	Deft files pro se: motion for a speedy trial.
05/20/2005		(jail list for 6/2/05)
06/02/2005		Defendant brought into Court. Hearing re: counsel. After hearing,
06/02/2005		paper #34 withdrawn. Locke, J. - L. Joseph, ADA - P. Pietrella, Court
06/02/2005		Reporter - E. Michael Sullivan Attorney.
06/15/2005		Medical records from Boston Medical Center received on this day.
06/15/2005		Medical records from Boston Medical Center received on this day.
07/11/2005	36	Deft files Pro Se motion for review and redress re: Docket and date
07/11/2005	36	to hear motions to toll Rule 36.
07/15/2005	37	Deft files Pro Se motion to dismiss.
08/15/2005		Defendant brought into Court. After pre trial hearing, continued by
08/15/2005		agreement to 9/12/05 for trial or plea and 9/8/05 for further status.
08/15/2005		MacIntyre,J-L.Joseph, ADA-L.Napolitano, Court Reporter.
08/22/2005		Defendant brought into Court, case not reached for trial. Case is
08/22/2005		continued to 8/24/05 for hearing re: Rule 36 and trial date by order
08/22/2005		of the Court. McIntyre,J-L.Joseph, ADA-N.Gagnon, Court
08/22/2005		Reporter-E.Michael Sullivan, Attorney.
08/24/2005	38	Commonwealth files Opposition to defendant's motion to dismiss for
08/24/2005	38	lack of a speedy trial.
08/24/2005		Defendant brought into Court. Hearing re: Oral motion of Attorney
08/24/2005		E.Michael Sullivan to withdraw as stand-by counsel. After eharing,
08/24/2005		the Court allows motion subject to the filing of an affidavit by the
08/24/2005		defendant waiving his right to counsel.
08/24/2005	39	Deft files pro-se affidavit waiving his right to counsel.
08/24/2005		Continued to week of 9/21/05 by order of Court for trial. Rule 36
08/24/2005		tolled. RPC notified. Locke,J-L.Joseph, ADA-E.Blake, Court
08/24/2005		Reporter-RPC Notified. Locke,J-L.Joseph, ADA-E.Blake, Court
08/24/2005		Reporter-Defendant pro se.
09/09/2005		Case received from the 1st session - Defendant not present.
09/09/2005		Continued to 9/13/2005 for hearing on PTC in the 5th session by
09/09/2005		agreement at 2:00 P.M. Botsford, J - L Joseph, ADA - M Malley, Court
09/09/2005		- Reporter - Defendant - Pro se. Stephen E Neel, Justice
09/13/2005		Defendant not present. Case rescheduled for status on 9/15/05 by
09/13/2005		o/ct. Jail List. Botsford, J. - L.Joseph, ADA -
09/13/2005	40	Commonwealth files memorandum of law in support of introduction of
09/13/2005	40	expert testimony of Amy Tishelman, M.D. with Curriculum Vitae.

09/13/2005	41	Commonwealth files memorandum of law in support of introduction of
09/13/2005	41	expert testimony of Alice Newton, M.D.
09/13/2005	42	Commonwealth files motion for judicial inquiry into criminal history
09/13/2005	42	records of potential trial jurors or, in the alternative notion of
09/13/2005	42	intent to independently seek such information for limited purposes of
09/13/2005	42	jury impanelment
09/13/2005	43	Commonwealth files motion in limine for protective order
09/13/2005	44	Curriculum Vitae filed by Dr.Carolyn Moore Newberger
09/15/2005		Defendant brought into Court.
09/15/2005	45	Commonwealth files Motion in Limine to Introduce Testimony Regarding
09/15/2005	45	Fresh Complaint
09/15/2005	46	Deft files Pro Se Motion to Dismiss (Rule 36) Constitution/Standard
09/15/2005	46	Speedy Trial Violation. Continued to September 19, 2005 for Hearing
09/15/2005	46	re: Paper #26 at 2:00 P.M. by Order of Court. Case further continued
09/15/2005	46	to November 7, 2005 by agreement for trial. Defendant assents to
09/15/2005	46	tolling of Rule 36 for this continuance. (To be assigned by RPC)
09/15/2005	46	Botsford, J. - L. Joseph, ADA - M. Malley, Court Reporter - Defendant
09/15/2005	46	Pro Se.
09/19/2005		Brought into Court.
09/19/2005	47	Commonwealth files: Opposition to Defendant's Motion to Dismiss for
09/19/2005	47	Lack of a Speedy Trial.
09/19/2005		Hearing re: Paper #46.
09/19/2005		After hearing, Paper # 46 is taken under advisement. Botsford, J.
09/19/2005		Continued to 11/7/05 by agreement for Trial. Botsford, J. - L.
09/19/2005		Joseph, ADA - Defendant, Pro Se - M. Malley, CR.
10/13/2005	48	MEMORANDUM & ORDER: Memorandum and Order Denying Defendant's Motion
10/13/2005	48	to Dismiss Under Rule 36 and the Massachusetts and Federal
10/13/2005	48	Constitutions by the Court, Botsford, J. filed.
10/13/2005		The Court, Botsford, J. orders Defendant's Pro Se Motion to Dismiss
10/13/2005		(Paper #46) be Denied. Botsford, J.
10/13/2005	49	Defendant files Pro Se request that the honorable court grant a
10/13/2005	49	status hearing. Allowed, as endorsed. (ref record)
10/13/2005	50	Defendant files Pro Se request that the honorable court issue a
10/13/2005	50	subpeona for the delivery of records to be used as evidence in the
10/13/2005	50	above entitled matter. These records are in the posession of the
10/13/2005	50	defendant at the Nashua Street Jail.
10/13/2005	51	Defendant files Motion for expenses for out of state witnesses.
10/13/2005	52	Defendant Pro Se respectfully requests the honorable court provide a
10/13/2005	52	copy of the case summary criminal docket in the above entitled matter.
10/21/2005		Defendant brought into court.
10/21/2005		Attorney Denise Regan appointed standby counsel, pursuant to Rule 53.
10/21/2005		Oral motion of standby counsel, Denise Regan to reschedule case to
10/21/2005		October 28, 2005 for status and motions, Allowed.
10/21/2005		After hearing, case rescheduled to October 28, 2005 at the request of

10/21/2005		the defendant for status and motions. Fahey, J - D. Regan Attorney -
10/21/2005		L. Napolitano Court Reporter - L. Joseph ADA
10/21/2005		Defendant brought into court.
10/21/2005	53	Defendant files Motion for funds, with affidavit in support thereof.
10/28/2005	54	Defendant files Motion for funds: transcript
10/28/2005	55	Defendant files Motion to continue trial date.
10/28/2005	56	Commonwealth files request for defendant's standby counsel to conduct
10/28/2005	56	cross examination of the witness.
10/28/2005		Defendant waives Rule 36.
10/28/2005		After hearing paper #53, Allowed (ref record) paper #54, Allowed (ref
10/28/2005		record)
10/28/2005		After further hearing, case rescheduled at the request of the
10/28/2005		defendant to 11/7/05 for status and 11/28/05 for trial. Fahey J. - L.
10/28/2005		Joseph ADA - M. Leary Court Reporter D. Regan Attorney
11/07/2005		Defendant present, after hearing case continued until 11/9/2005 for
11/07/2005		lobby conference and motions @ 2. Jail list. Fahey J - L. Joseph,
11/07/2005		ADA - C. Blankenstadt, Court reporter - D. Reagan, Attorney.
11/09/2005		Defendant brought into court.
11/09/2005	57	Deft files motion for the production of Department of Social Service
11/09/2005	57	records.
11/09/2005	58	Deft files motion for production of medical records.
11/09/2005	59	Deft files motion for discovery concerning DNA testing.
11/09/2005	60	Deft files motion for funds for psychologist.
11/09/2005	61	Commonwealth files notice of discovery.
11/09/2005		After hearing case rescheduled by agreement to 11/17/05 for status
11/09/2005		@3. Jail list. Fahey, J - L. Joseph, ADA - C. Blankenship, Court
11/09/2005		reporter - D. Regan, Attorney.
11/10/2005		Defendant not in court.
11/10/2005		After hearing, paper #57, Denied (ref record)
11/10/2005		After hearing paper #56, Withdrawn (ref record)
11/10/2005		After hearing paper #58, Allowed in part and Denied in part (ref
11/10/2005		record)
11/10/2005		After hearing paper #59 Allowed in part and Denied in part (ref
11/10/2005		record)
11/10/2005		After hearing paper #60 Allowed in part and Denied in part (ref
11/10/2005		record) Fahey, J - D. Regan Attorney L. Joseph ADA - C. Blankenship
11/10/2005		Court Reporter
11/14/2005	61	Defendant files Motion for additional funds, psychologist
11/14/2005	61	Defendant files Motion for discovery
11/14/2005	62	Defendant files Motion concerning DNA testing
11/14/2005	63	Defendant files Motion for use of juror questionnaire.
11/14/2005	64	Defendant files Notice of Appeal.
11/14/2005	64	Commonwealth files Opposition to defendant's Motion for production of
11/14/2005	64	the victims confidential information.

11/17/2005		Defendant brought into court.
11/17/2005	65	Defendant files Motion for discovery, expert testimony
11/17/2005	66	Defendant files Motion for Discovery.
11/17/2005	67	Defendant files Motion for Discovery concerning DNA testing.
11/17/2005	68	Defendant files Motion for funds II Hollida Wakefield
11/17/2005	69	Defendant files Motion for production of DSS records II and
11/17/2005	69	continuance of trial date or agreement concerning records.
11/17/2005	70	Commonwealth files Motion in limine to introduce first compalint
11/17/2005	70	testimony.
11/17/2005		After hearing case continued by agreement to November 22,2005 for
11/17/2005		further status and motions. Fahey, J - L. Joseph ADA - D. Regan
11/17/2005		Attorney C. Blankenship Court Reporter
11/22/2005		Defendant brought into court.
11/22/2005	71	Defendant files Motion for additional funds.
11/22/2005	72	Defendant files Motion to set trial date.
11/22/2005	73	MEMORANDUM & ORDER: For production of DSS records II continuance of
11/22/2005	73	trial date and agreement concerning records.
11/22/2005		After hearing, paper #71 and #72, Allowed (ref record)
11/22/2005		Case continued by request of the defendant to November 28, 2005 for
11/22/2005		further status and motions. Fahey, J - L. Joseph ADA - D. Regan
11/22/2005		Attorney C. Blankenship Court Reporter
11/28/2005		Defendant brought into court
11/28/2005		After hearing paper #61, Allowed in part and Denied in part (ref
11/28/2005		record)
11/28/2005		After hearing paper #63, Allowed in part and Denied in part (ref
11/28/2005		record)
11/28/2005		Case continued by agreement to December 1, 2005 for trial. Fahey, J -
11/28/2005		L. Joseph ADA - D. Regan Attorney C. Blankenship Court Reporter.
12/01/2005		Defendant brought into court.
12/01/2005	74	Defendant files Motion to dismiss on speedy trial grounds.
12/01/2005	75	Defendant files Motion for expedited transcripts.
12/01/2005	76	Defendant files Motion for examination of jurors.
12/01/2005	77	Defendant files Motion for Voir Dire of Commonwealth's DNA expert.
12/01/2005	78	Defendant files Motion for limiting instruction.
12/01/2005	79	Defendant files Motion to limit number of first complaint testimony.
12/01/2005	80	Defendant files Motion for sequestration of witnesses.
12/01/2005	81	Defendant files Motion in support of motion to stay proceedings.
12/01/2005	82	Commonwealth files Notification of intent to introduce testimony
12/01/2005	82	regarding first complaint.
12/01/2005	83	Commonwealth files Affidavit in support of motion to compel the
12/01/2005	83	defendant to provide an oral swab and hair sample.
12/01/2005		After hearing, paper #75, Allowed in part and Denied in part (ref
12/01/2005		record)
12/01/2005		After hearing paper #80 Allowed (ref record)

12/01/2005 After hearing, paper #81, Denied (ref record)

12/01/2005 Commonwealth moves for trial on offense numbers 001-011 inclusive.

12/01/2005 Court orders fifteen jurors impanelled.

12/01/2005 After hearing, fifteen jurors impanelled, not sworn.

12/01/2005 Case continued to December 5, 2005 by order of court for a motion to

12/01/2005 suppress hearing and December 6, 2005 for the resumption of trial.

12/01/2005 Jail List. Fahey, J - L. Joseph ADA - D. Regan Attorney - C.

12/01/2005 Blankenship Court Reporter.

Charges

11 Charges for Docket: SUCR2003-10321

No.	Charge Description:	Indictment:	Status:
1	INDECENT A&B ON CHILD UNDER 14 c265 s13B		Plea of not guilty
2	RAPE OF CHILD, STATUTORY c265 s23		Plea of not guilty
3	INDECENT A&B ON CHILD UNDER 14 c265 s13B		Plea of not guilty
4	INDECENT A&B ON CHILD UNDER 14 c265 s13B		Plea of not guilty
5	RAPE OF CHILD, STATUTORY c265 s23		Plea of not guilty
6	INDECENT A&B ON CHILD UNDER 14 c265 s13B		Plea of not guilty
7	INDECENT A&B ON CHILD UNDER 14 c265 s13B		Plea of not guilty
8	INDECENT A&B ON CHILD UNDER 14 c265 s13B		Plea of not guilty
9	INDECENT A&B ON CHILD UNDER 14 c265 s13B		Plea of not guilty
10	RAPE OF CHILD, STATUTORY c265 s23		Plea of not guilty
11	RAPE OF CHILD, STATUTORY c265 s23		Plea of not guilty

© Copyright, Massachusetts Administrative Office of the Trial Court, 2000 - 2001.